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10/732,745

12/11/2003

Esa Malkamaki

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04/15/2008

SQUIRE, SANDERS & DEMPSEY L.L.P.

8000 TOWERS CRESCENT DRIVE

14TH FLOOR

VIENNA, VA 22182-2700

EXAMINER

RIZK, SAMIR WADIE

ART UNIT

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/732,745  
Filing Date: December 11, 2003  
Appellant(s): MALKAMAKI ET AL.

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David D. Nelson  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed on 1/22/2008 appealing from the Office action mailed on 7/10/2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

1. Laroia et al. US publication no. 2004/0228320
2. Applicant Admitted Prior Art (AAPA) as disclosed in the specification.

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

Claims 1, 2, 7-17, 21-23 and 25-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Laroia et al. US publication no. 2004/0228320 (Hereinafter Laroia).

In regard to claim 1, Laroia teaches:

A method comprising:

providing a set of predetermined sequences of redundancy parameters; (Note:

Figure 5, reference characters (512), (514), (516), (518) and (519) in Laroia)

selecting at least one of said set of predetermined sequences; and (Note: Figure

5, reference characters (420), (520), (528) in Laroia)

transmitting information indicating the selected at least one sequence to said-a

terminal device to provide said redundancy parameters for an automatic repeat

request processing at said terminal device. (Note: Figure 6, reference characters

(526) and (530) in Laroia) Detailed teaching is included in sections [0078] -

[0080] in Laroia.

In regard to claim 2, Laroia teaches:

The method according to claim 1, further comprising;

providing said information comprising at least one of an index and a

pointer to said selected at least one predetermined sequence.

(Note: Figure 7, reference character (700) and section [0050] in Laroia)

In regard to claim 7, Laroia teaches:

The method according to claim 1, wherein said transmitting of said information is performed at a beginning of a connection.

(Note: Figure 12, reference characters (1208), (1258), (1264) and (1266) in Laroia)

In regard to claim 8, Laroia teaches:

The method according to claim 1, wherein, in said providing of said set of predetermined sequences, said set of predetermined sequences comprises a predefined fixed set.

(Note: Figure 5, reference characters (512), (514), (516), (518) and (519) in Laroia)

In regard to claim 9, Laroia teaches:

The method according to claim 1, wherein, in said providing of said set of predetermined sequences, said redundancy parameters comprise a first parameter defining a self-decodable redundancy version and a second parameter defining bits which are to be punctured.

(Note: section [0077] in Laroia)

In regard to claim 10, Laroia teaches;

The method according to claim 1, wherein, in said providing of said set of predetermined sequences, said set of predetermined sequences comprise sequences relating to at least one of a chase combining strategy, a partial incremental redundancy strategy, and a full incremental redundancy strategy.

(Note: section [0077] in Laroia)

Claim 11 is rejected for the same reasons as per claim 5.

In regard to claim 12, Laroia teaches:

The method according to claim 1, wherein said transmission of said information is performed by broadcasting said information to substantially all terminal devices located within a predetermined area.

(Note: section [0021] in Laroia)

Claim 13 is rejected for the same reasons as per claim 12.

In regard to claim 14, Laroia teaches:

The method according to claim 1, wherein transmitting of said information is

performed via a wireless communication link.

(Note: Figure 1 in Laroia)

In regard to claim 15, Laroia teaches:

The method according to claim 1, further comprising:

performing said automatic repeat request processing for a data transmission on an enhanced uplink dedicated channel.

(Note: Figure 4, reference character (456) in Laroia)

Claims 16, 23, 28-30 are rejected for the same reasons as per claim 1.

In regard to claim 17, Laroia teaches:

The terminal device according to claim 29, further comprising:

a mobile terminal of a cellular communication network operably connected to said receiver.

(Note: Figure 1, reference characters (110), (112), (118) and (120) in Laroia)

Claim 21 is rejected for the same reasons as per claim 9.

In regard to claim 22, Laroia teaches:

The terminal device according to claim 29, further comprising:

a storing unit, operably connected to said receiving means, configured to store a set of sequences of redundancy parameters and wherein said information comprises at least one of a pointer and an index to said stored set of sequences.

(Note: Figure 3, reference character (336) in Laroia)

Claim 25 is rejected for the same reasons as per claim 12.

Claim 26 is rejected for the same reasons as per claim 22.

Claim 27 is rejected for the same reasons as per claim 17.

### ***Claim Rejections - 35 USC § 103***

Claims 3-6, 18-20 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laroia as applied to claim 1 above, and further in view of the Applicant Admitted Prior Art (Hereinafter AAPA)

In regard to claim 3, Laroia teaches substantially all the limitations in claim 1.

However, Laroia does not teach:

The method according to claim 1, wherein transmitting of said information is performed by using a higher layer signaling.



The AAPA discloses:

the method according to claim 1, wherein transmitting of said information is performed by using a higher layer signaling.

(Note: Section [0003], lines (5-6) in AAPA)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of the AAPA that comprise detailed enhancements for uplink packet data of Wideband Code Division Multiple Access (WCDMA) systems cover radio transmission of data from a mobile unit or mobile terminal, called User Equipment (UE) in third generation terminology, to a fixed station, called Node B in third generation terminology. Here, the case of erroneous reception of data packets is handled by Radio Link Control (RLC) signaling. This is disadvantageous in that a retransmission will require relatively large buffers and will introduce significant delays. One of the technologies under investigation in connection with enhanced uplink data is fast H-ARQ, where the packet retransmissions are handled at either physical layer or Media Access Control (MAC) layer and thus in principle at the Node B instead of the Radio Network Controller (RNC). This will significantly reduce the retransmission delay, allowing for more aggressive settings of the Block Error Rate (BLER) targets for the transmissions from the UE, which leads to a potential gain in uplink capacity through reduced signal-to-noise ( $E_b/N_0$ ) requirements with the teaching of Laroia...

This modification would have been obvious to one of ordinary skill in the art, at

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the time the invention was made, because one of ordinary skill in the art would have recognized the need to support the standardization phase of the High Speed Downlink Packet Access (HSDPA).

In regard to claim 4, AAPA discloses:

The method according to claim 3, wherein, in said transmitting of said information, said higher layer signaling comprises Radio Resource Control signaling.

(Note: Section [0003], lines (5-6) in AAPA)

In regard to claim 5, Laroia teaches:

The method according to claim 3, further comprising:  
using an outband signaling for notifying about redundancy parameters  
used from said selected at least one sequence.

(Note: Figure 4 in Laroia)

In regard to claim 6, Laroia teaches:

The method according to claim 5, wherein, in said using of said outband signaling, the amount of said outband signaling is made dependent from said selected at least one sequence.

(Note: Figure 7 in Laroia)

Claim 18 is rejected for the same reasons as per claim 4.

Claims 19 and 24 are rejected for the same reasons as per claim 5.

Claim 20 is rejected for the same reasons as per claim 6.

### **(10) Response to Argument**

1. In regard to claim 1, the Appellant summarized in his view of the rejection based on Laroia teaching in FIG. 5 and concluded in page 14, lines (8-19) that Laroia does not teach the selection process of codeword sequence from a predetermined set of sequences:

*"As briefly discussed at Section VI above, claim 1 recites that a predetermined sequence of redundancy parameters is provided, from which one sequence is selected and information indicating the selected sequence is transmitted to a terminal device. Therefore, a network operator is able to select redundancy version strategies to be used by the terminal device, while little signaling is required between the network and the terminal device.*

*In contrast thereto, as described above, Laroia fails to teach or suggest, at least, **"selecting at least one of said set of predetermined sequences,"** as recited in independent claim 1. As further provided in independent claim 1, based on the selected at least one sequence providing said redundancy parameters transmitted to a terminal device, the terminal device performs an automatic repeat request processing.*

Examiner firstly notes that the passages:

*'Therefore, a network operator is able to select redundancy version strategies to be used by the terminal device, while little signaling is required between the network and the terminal device...* ' based on the selected at least one sequence providing said redundancy parameters transmitted to a terminal device, the terminal device performs an automatic repeat request processing.'

are not recited as limitations in Claim 1 as alleged by the Appellant.

Examiner therefore notes 'Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).'

Examiner secondly notes that, actually, Laroia teaches in section [0101] in great detail the selection process of the redundant bits (first part, second part, third part, forth part) in FIG.5 through the feedback information from **the multi-level NAK**. the transmitter can adaptively determine **(select)** the number of effective incremental redundant bits to be included in the traffic segment.

3. In summary with regard to claim 1, the Examiner asserts that Laroia teaches every limitation cited explicitly in the claim, that is:

a) providing a set of predetermined sequences of redundancy parameters;

Laroia: Figure 5, reference characters (512), (514), (516), (518) and (519)

b) selecting at least one of said set of predetermined sequences; and

Laroia: Figure 5, reference characters (420), (520), (528)

c) transmitting information indicating the selected at least one sequence to said-a terminal device to provide said redundancy parameters for an automatic repeat request processing at said terminal device.

Laroia: Figure 6, reference characters (526) and (530) and Detailed teaching is included in sections [0078] - [0080]

4. The Appellant continued on page 14, lines (20-21) to assert that there is no selection of at least one set of predetermined sequences in Laroia. The Examiner maintains that Laroia teaches the selection in many different ways. For example, Laroia in section [0102] teaches how a 3-level NAK acknowledgment can be applied to FIG. 5 to select redundant bits from the set of sequences (514, 516, 518 and 519).
5. In regard to claims 2, 7-17, 21-23 and 25-30 that Appellant has not raised any other issues that would overcome the 102 rejection based on the prior art that Laroia teaches.  
  
The Examiner thus asserts that Laroia disclosure teaches every limitation of the claims 1, 2, 7-17, 21-23 and 25-30.
6. In regard to claims 3-6, 18-20 and 24 rejection under section 35 USC § 103 the appellant has not argued any specific limitation. The Appellant has not cited what violation or error or deficiency of combining Laroia with AAPA as per The factual inquiries set forth in *Graham v. John Deere Co.*

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Sam Rizk/

Examiner, Art Unit 2112

/JACQUES H LOUIS-JACQUES/

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